IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

MFA.No. 896 of 2002()

OP(MV.)733/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALA
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APPELLANT: CLAIMANT

VIJAYAMMA, W/O.THANKAPPAN,
NJALLANAKUZHIYIL HOUSE,
NEERUMALABHAGOM, NELOOR P.O.,
KADANADU.

BY ADV. SRI.RAJEEV V.KURUP

RESPONDENTS: RESPONDENTS
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1. **JOBY MATHEW, S/O.MATHEW,**
   PARANKULANGARA HOUSE,
   KUDAYATHOOR P.O.,
   THODUPUZHA.

2. **JOSEPH K.MATHEW, @ KUNJU S/O.MATHEW,**
   KALAYATHIANANICKAL, HOSPITAL BHAGOM,
   KEETTILA, ARAKKULAM.

3. **THE UNITED INDIA INSURANCE COMPANY LTD,**
   REPRESENTED BY THE BRANCH MANAGER,
   UNITED INDIA INSURANCE COMPANY THODUPUZHA
   BRANCH, THODUPUZHA.

BY ADV. SRI.G.GOPAKUMAR - R1
SRI.NOEL JOSEPH
SRI.P.SANKARANKUTTY NAIR - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/12/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.No.896 OF 2002

Dated 4th December, 2007

JUDGMENT

Koshy,J.

Appellant/claimant met with an accident and she claimed a compensation of Rs.1,50,000/=. Tribunal awarded only Rs.52,200/= and directed the third respondent insruance company which has insured the offending vehicle to pay the compensation. Only quantum of compensation is disputed in this appeal.

2. As a result of the accident, both bones of her both legs were fractured, both tibia and fibula of both legs were fractured, and nail was inserted. But, medical certificate shows that fractures were united. Since no disability certificate was produced before the Tribunal, no compensation was awarded for disability, but, Rs.8,000/= was awarded for loss of earning power. After filing the appeal, 10% disability was assessed by the Medical Board and a petition was filed producing the medical certificate which shows that fracture to both bones were united, but, there was permanent disability of mild handicap was assessed as 10% as there is stiffness. Since the fractures were united, we are of the view that apart from Rs.8,000/= already awarded, another Rs.5,000/= can be awarded for disability and loss of earning power together. He

was hospitalised again for removal of the implants. Certificate also shows that nails were removed. For treatment and other consequential expenses for removal of implants, we award another Rs.3,500/=. Thus, appellant will be entitled to an additional compensation of Rs.8,500/=, over and above the decreed amount by the Tribunal, with 7.5% interest from the date of application till its deposit. On deposit of the amount, appellant is allowed to withdraw the same.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.T.SANKARAN
JUDGE

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